

Subj: **RM-10403 ex parte filings, Progeny, Freedom Technologies**
Date: Wednesday, October 2, 2002 7:42:58 PM
From: wchavens
To: jo@htgm.com, PDARI@fcc.gov
cc: RARSENAU@fcc.gov, mcfarquhar@hhlaw.com, jstobaugh@telesaurus.com

Janice Obuchowski
Legal Counsel for Progeny LMS LLC

Dear Janice,

This email is in relation to requirements to §1.1206(b)(2). Recently, Mr. Arsenault and Mr. d'Ari advised me regarding the strict requirements to disclose ex parte communications, even of a brief reference to FCC staff of my past filings in docket RM-10404 with no new information and no arguments in such reference. (See filing in my name of today in this docket.) I accept the need for strictly keeping all Ex Parte communication fully disclosed for fairness and integrity of Commission decision making (see §1.1200(a)), and seek the same strict policy regarding other participants in proceedings I am involved with.

To be meaningful, and consistent with the advice noted above, under §1.1206(b)(2), the "memorandum which summarizes the new data or arguments" must disclose all material aspects of the subject oral communication, including the parties involved and the contents of the communication.

In this regard, in the RM-10402 docket on ECFS, there is a filing by Freedom Technologies stamped by FCC as received on September 10, 2002, signed by Mr. Halprin, regarding an oral ex parte presentation made by you. The filing on ECFS is listed as on behalf of Freedom Technologies, not Progeny, and it does not make clear in the filing itself if this was filed by counsel of Progeny on Progeny behalf, or by Freedom Technologies on its behalf, nor what and where is Freedom Technologies? The letterhead has the name of the law firm Halprin Temple, and the relation of Freedom Technologies to that firm and to Progeny is not explained. Regarding substance, this filing noted that what you presented "included the views expressed in the docket." Whose views does Freedom Technologies refer to? (Progeny, I assume, but it is not at all clear), and what were the other matters discussed, as implied by the word "included"?

In this docket, there is another filing, also signed by Mr. Halprin, dated July 2, 2002 but stamped as filed on September 20, 2002. I assume the July 2 date is incorrect. The description given of what was presented is entirely vague. What is the nature of the modification or supplement of the Progeny technical proposal that was reported as discussed, and what is the technical proposal of Progeny that is referred to? This appears to refer to important new materials which Mr. Jones, a consultant to Progeny, presented orally to FCC staff. This ex parte filing does not provide a meaningful summary under 1.1206(b)(2) for purposes of §1.1200(a) (disclosures for fairness and integrity of decision making).

I will review the ECFS docket for any supplement you file. If you would, please email to me a copy if you file one.

I am filing this as an ex parte communication in this docket consistent with the advice noted above from Mr. Arsenault and Mr. d'Ari.

Thank you for your consideration of this matter.

Sincerely,

Warren Havens